

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

CAREY DON SMITH,

Plaintiff,

V.

ALLSTATE INSURANCE COMPANY, et al.,

Defendants.

CIVIL ACTION

NO. 15-cv-00325

DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT

Defendants Allstate Insurance Company, Randy Miller, and Jeff Donaway move this Honorable Court, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss Plaintiff Carey Don Smith's Complaint in its entirety and with prejudice for the reasons set forth in full detail in their supporting Memorandum of Law filed contemporaneously herewith.

WHEREFORE, Defendants respectfully request that this Honorable Court enter an Order granting their Motion to Dismiss Plaintiff's Complaint in its entirety and with prejudice and awarding Defendants such other relief as this Court deems just and equitable.

Dated: November 16, 2015

Respectfully submitted,

/s/ M. Scott Barnard

M. Scott Barnard
Texas Bar No. 24001690
Molly E. Whitman
Texas Bar No. 24081990
Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, TX 75201-4624
(214) 469-4299
(713) 236-0822 (fax)
sbarnard@akingump.com
mwhitman@akingump.com

Sallie G. Smylie, *pro hac vice* pending
Jordan M. Heinz, *pro hac vice* pending
Brian P. Borchard, *pro hac vice* pending
Kirkland & Ellis LLP
300 N. LaSalle
Chicago, IL 60654
(312) 862-2000
(312) 862-2200 (fax)
ssmylie@kirkland.com
jheinz@kirkland.com
brian.borchard@kirkland.com

*Attorneys for Defendants Allstate Insurance
Company and Randy Miller*

F. Scott Flow
Texas Bar No. 00784064
FLOW LAW FIRM, PLLC
P.O. Box 2673
Amarillo, TX 79105-2673
(806) 372-2010
(806) 376-4515 (fax)
fsflow@flowlaw.com

Attorney for Defendant Jeff Donaway

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served on November 16, 2015, by electronic mail on the following counsel:

Thomas Kendrick
PO Box 19503
Amarillo, TX 79109
Ph: 806-371-7400
Email: TomK@Kendricklaw.com
Texas State Bar No. 11275000

/s/ M. Scott Barnard